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UNITED STATES HOUSE OF REPRESENTATIVES

PERMANENT SELECT COMMITTEE  
ON INTELLIGENCE

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Testimony of

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MR. CHAIRMAN. American soldiers expect to face hostility, danger and even death from an enemy. They expect the nation which sends them into combat, however, to protect them against being shot in the back by fellow Americans. In several laws, Congress does exactly that. One is of course the punishment for treason for giving aid and comfort to the enemy. A more precise one is the statute punishing anyone who, "with intent to interfere with, impair or influence the loyalty, morale or discipline of the military or naval forces....advises, counsels, urges, causes or attempts to cause insubordination, disloyalty, mutiny, or refusal of duty" among their fellow soldiers. (18 U.S.C. 2387)

Congress has enacted a number of other acts to protect particular officers of the government against assault, murder or manslaughter. These include

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the President and Vice President (18 U.S.C. 1751), Members of Congress (18 U.S.C. 351), and officers and employees of the United States (18 U.S.C. 1114). Congress has also provided punishments for individuals falsely impersonating government officers (18 U.S.C. 912); the Supreme Court has said that the proper purpose of that Act is "to maintain the general good repute and dignity of government service". (U.S. v. Lepowitch, 318 U.S. 702 (1943))

Mr. Chairman, American intelligence officers abroad face hostility, danger and possible death from hostile governments, terrorist groups and individuals. They do this in conformity with the intelligence mission assigned them by our Constitutional executive and legislative authorities. I hope that this mission will be clarified in the near future by the adoption of a new legislative charter, as the President has suggested. But the National Security Act of 1947 and subsequent annual appropriations for our intelligence services over the past thirty years constituted a Congressional determination that intelligence was a necessary service of our American government and that its officers and employees, and their families, and our foreign agent sources were serving the American nation.

The dangers to intelligence personnel abroad have been increased in recent years by the sensational and irresponsible exaggeration of a comparatively few

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incidents in the history of CIA, to give a totally false impression of the scale of its missteps and misdeeds and stimulate attention and hostility to its activities. And the vulnerability of our officers has increased as a result of inadequate official and unofficial cover available for their protection and of unauthorized revelations by erstwhile fellow intelligence officers repudiating their solemn undertaking to respect the necessary discipline of the profession. Other Americans opposed to intelligence for ideological reasons have developed a cottage industry of exposing fellow Americans. They frankly admit this dangerous action as a cynical tactic to veto Congress' determination that the service is important to the protection of our republic.

Danger is not the only threat these practices pose. The identification of our officers increases surveillance of their actions by hostile governments and political groups so that they cannot carry out their missions. Other governments can also be politically compelled to act against their presence when their identification is trumpeted, although they would be more permissive if they could pretend ignorance. And the career potential of highly motivated, selected and trained officers can be ruined by this sort of deliberate sabotage.

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The personnel of our intelligence services have carried on their duties as well as they could despite these harassments and dangers. But it is far past time that the Congress should provide the necessary protection and support that the honorable men and women of intelligence deserve in their service abroad. The Congress has protected our military forces; it has protected our currency against counterfeiting; it punishes citizens who refuse to pay taxes out of disagreement with the laws enacted by our Constitutional system; it even took pains to omit the identities of intelligence personnel from the published accounts of its extensive investigations in the last five years of past intelligence activities. It now must act against those who would deliberately destroy what the Congress has determined is essential to protect our country -- an effective intelligence service.

An even more vulnerable group of people are the foreign and American sources and informants of American intelligence. Many of these have responded to the increased danger in recent years by withdrawing from secret relationships or refusing to initiate them, in well justified fear that they would be exposed to retribution and reprisal for contributing to America's better knowledge and understanding of foreign developments. In today's world, Mr. Chairman, we must reassure them that we have the will

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and the means to protect them, as we would our eyes and ears.

As this committee well knows, however, the present statutes of the United States are totally inadequate to provide this reasonable support and protection of our officers and informants. The attempts of the executive to use contract law to control this pernicious activity have been valiant, but are obviously inadequate. It is also plainly undignified for this Congress to leave such an important obligation to the mercies of such a skimpy protective device.

For these reasons, Mr. Chairman, I fully support H.R. 5615 and commend the responsibility and initiative of its sponsors, which I note with pleasure include every member of this important committee. Its section 501(a) will protect us against those who would obtain authorized access to information about our officers and informants and then repudiate a freely undertaken responsibility to protect what they learn. Section 501(b) will extend this protection against anyone who with the "intent to impair or impede the foreign intelligence activities of the United States" exposes our personnel or sources. That specific intent puts their activity well beyond the Constitutional protections of free speech, press and assembly, especially as the intent must be proved by more evidence than the mere intentional disclosure of

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the information or inferences derived therefrom, and the proscriptions are clearly necessary and reasonable to protect an important public function.

This bill, Mr. Chairman, is no "Official Secrets Act" on the lines of British legislation. It does not even go as far as suggestions I previously made to this committee, which would have included the secret techniques and sensitive technology as well as the human sources of our intelligence agencies. It does, however, take a major step forward for the protection of the individuals who serve our intelligence community. This bill would carry out the obligation our country expressly and by implication makes to protect the identities of Americans and foreigners who risk their lives, their families and their livelihoods to provide our country the information necessary to give it better protection against the many problems in the hostile world around us.

Some time ago, Mr. Chairman, I asked the Congress to "give a signal" to our friends around the world that we will protect the real secrets of American intelligence, while we will not insist on the complete secrecy that envelops the intelligence services of other countries. Intelligence technology has expanded our knowledge of the world immensely, but there are subjects which are not

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visible on the photographs or ascertainable by electronics.

We must depend upon brave Americans and brave foreigners to provide us this material. We owe their bravery the same debt of responsibility for their safety that our country owes our soldiers when we send them into action.

I have only two minor points in addition, Mr. Chairman, to submit for your consideration. The definition in section 505(6) excludes from the category of agent, informant or source of operational assistance, individuals who are our citizens residing within the United States. I would suggest that a number of such individuals should be given the same protection as the same category abroad. This could be of particular importance in securing the assistance of American citizens in this country to arrange cover protection for intelligence officers abroad and conduct other activities abroad from an American base. Exposure can wreck their businesses, curtail their foreign connections and travel and subject them to public attack for having helped their country. The definition does not exclude foreigners residing in the United States, and I believe it should not, so I find it somewhat contradictory that it excludes our citizens within the United States. If the concern is to ensure that the Agency not be involved in operations within the United States actively

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using informants and agents here for domestic purposes, better systems of control are available in the new charter legislation than leaving these other legitimate helpers exposed in the fashion that this definition does.

It would also seem appropriate to consider the addition of the Federal Bureau of Investigation to the agencies listed in section 505(4). A number of their informants and agents would seem to be entitled to the same protection as we would give foreign sources. It may be that this subject will be covered in separate charter or other legislation for the FBI, but I suggest that it is a subject that needs attention.